

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

KELLY MILLIGAN,
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

vs.

MERRILL LYNCH, PIERCE, FENNER &
SMITH INC., BANK OF AMERICA CORP.,
and JOHN/JANE DOE 1, THE SENIOR VICE
PRESIDENT–HUMAN RESOURCES
GLOBAL BANKING AND GLOBAL
WEALTH AND INVESTMENT
MANAGEMENT ADMINISTRATION AT
BANK OF AMERICA CORP.,

Defendants.

Civil Action No. 3:24-cv-00440

CLASS ACTION

PLAINTIFF’S MOTION FOR LEAVE TO AMEND THE COMPLAINT

Plaintiff Kelly Milligan, by and through his undersigned counsel, moves this Court for leave to amend the Complaint pursuant to Federal Rule of Civil Procedure 15(a)(2). Plaintiff’s proposed Amended Complaint, attached as Exhibit A,¹ adds allegations pertaining to an additional type of deferred compensation (Restricted Stock Units), revises the class definition to conform with the applicable statute of limitations, and adds plan funding to the relief sought.

In accordance with Local Rule 7.1 and the Pretrial Order and Case Management Plan, ECF 36, Plaintiff’s counsel consulted with Defendants’ counsel in a good faith attempt to resolve disagreement on the motion prior to filing. Defendants’ counsel indicated that they are unable to

¹ For the Court’s convenience, a redline comparing the proposed Amended Complaint to the original Complaint is attached as Exhibit B.

consent to the proposed amendment at this time but will respond further after conferring with their clients.

Dated: January 6, 2024

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Respectfully submitted,

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**Pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of January, 2025, the foregoing was filed with the Court using the CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the CM/ECF system.

/s/ John D. Hurst

John D. Hurst